

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

RAYMOND WILLIAM SCHMAL,

Plaintiff,

v.

Civ. No. 20-1324 CG/GJF

LUNA COUNTY, et al.,

Defendants.

**ORDER FOR SERVICE**

THIS MATTER is before the Court on pro se Plaintiff's "Motion to Request Officers of the Court to Serve a Copy of Plaintiff's Summons and Complaint on the Defendants" [ECF 11] ("Motion").

Plaintiff is proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915. This statute provides that the "officers of the court shall issue and serve all process ... in such cases." § 1915(d). Consequently, the Court ordered the Clerk of the Court to serve Defendant Luna County with a summons and a copy of the Complaint pursuant to Fed. R. Civ. P. 4(j)(2). ECF 9 at 3. In addition, the Court ordered the Clerk to (1) notify the other Defendants, at the addresses provided by Plaintiff, that an action has been commenced and (2) request that Defendants waive service pursuant to Fed. R. Civ. P. 4(d). *Id.*<sup>1</sup> The Court also instructed Plaintiff that "[i]f the docket shows that any of these [other] Defendants did not return the waiver of service within 45 days after service of the notice, waiver of service and copy of the Complaint, then Plaintiff shall file a motion requesting that officers of the Court serve a copy of the Summons and Complaint on Defendant." *Id.* at 4. The docket does not show that any of these other Defendants have returned a waiver of service.

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<sup>1</sup> The Court, however, instructed the Clerk not to "serve Defendants Luna County Sheriff's Department and Luna County Animal Control Shelter because they are not separate suable entities." *Id.*

**IT IS THEREFORE ORDERED** that Plaintiffs' Motion is **GRANTED IN PART AND DENIED IN PART** as follows:

- (1) Plaintiffs' Motion is **GRANTED** in that the Clerk of the Court shall provide a copy of this Order, a summons, and a copy of Plaintiff's Complaint [ECF 1] to the United States Marshals Service. The United States Marshals Service shall serve a copy of this Order, a summons and a copy of Plaintiff's Complaint on the following other Defendants:

Captain Michael Brown  
Luna County Sheriff's Department  
2462 J Street SE  
Deming, New Mexico 88030

Deputy Sergeant Luis Molina  
Luna County Sheriff's Department  
2462 J Street SE  
Deming, New Mexico 88030

Deming Animal Guardians  
14325 HWY 549 SE  
Deming, New Mexico 88030.<sup>2</sup>


- (2) Plaintiffs' Motion is **DENIED** in that the Court will not order service for Defendants Sandy Foster, Tammy McCoy, and Mike Reitz because Plaintiff has provided only post office box addresses for these Defendants. *See* ECF 1 at 4.<sup>3</sup> The Court will, however, order service on these Defendants if Plaintiff files a motion for service on those Defendants with the addresses of their dwellings or usual places of abode, or provides an address and name of persons authorized to accept service of process for each of these Defendants.

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<sup>2</sup> The Court used the addresses provided in the Complaint for Defendants Brown and Molina. The Court obtained the address for Defendant Deming Animal Guardians from the New Mexico Secretary of State's Corporations and Business Services website: <https://portal.sos.state.nm.us/BFS/online/CorporationBusinessSearch>.

<sup>3</sup> *See also* Fed. R. Civ. P. 4(e) (instructing that an individual may be served following state law for service, by delivering a copy of the summons and complaint to the individual personally, by leaving a copy of each at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there, or by delivering a copy of each to an agent authorized by appointment or by law to receive service of process); N.M.R.A. 1-004(E-F) (noting that service may be made by mail or courier service with the envelope addressed to named defendant provided that defendant or a person authorized by appointment, by law or by this rule to accept service of process upon the defendant signs a receipt for the envelope).

**SO ORDERED.**



THE HONORABLE GREGORY J. FOURATT  
UNITED STATES MAGISTRATE JUDGE